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TRADE AND DEVELOPMENT BOARD

GENERALIZED SYSTEM OF PREFERENCES

Scheme of Australia

Clarification to the Australian System of Tariff Preferences: Rules of origin

The UNCTAD secretariat has received from the Permanent Mission of Australia, the following letter:

"As a result of recent consultations between Australia and New Zealand, substantial clarifications were agreed on the way in which qualifying local content should be calculated under the rules of origin of the Australia/New Zealand Closer Economic Relations trade agreement. The Australian Government subsequently decided to extend these clarifications to all preference countries, including developing countries, under the ASTP.

"This decision does not alter existing rules of origin for determining ASTP preference eligibility. The existing rules of origin require that the last process of manufacture is performed in the country claiming preference, and that at least half the total factory or works cost of the goods must consist of the value of labour and/or materials of one or more developed countries. (Any Australian content may be counted as if it were developing country content.)

"The attached technical and administrative clarifications to the ASTP[1] rules of origin are intended to make clear past practice and to give it legal force. They are also intended to provide direction in the following areas: interpretation of terminology used in rules of origin legislation; determination of which components of factory or works cost can be included in local content for the purpose of determining eligibility for

[1] See annex.

preference; determination of the amount to include in the final assessment where materials of mixed origin have been used as inputs in the manufacturing process - treatment of depreciation of plant, equipment, buildings, inner containers, waste, scrap and recycled materials. And, finally, the clarifications to the rules of origin will formalize the inclusion of overheads in factory and works cost."

Annex

PROPOSED CLARIFICATION OF ADMINISTRATIVE ARRANGEMENTS TO APPLY TO PREFERENCE ARRANGEMENTS OTHER THAN CER

DEFINITIONS AND INTERPRETATIONS

Preference Country

Preference country means a country to which Australia applies a preferential rate of import duty.

Preference Area

2. Preference area means the preference country and such other countries/territories who materials, when incorporated in goods, may in accordance with Section 151 of the Customs Act 1901, be combined for the purpose of calculating qualifying area content of those goods

Factory or works

3. "Factory or works" is the place within the preference country where the manufacturing process occurs.

The manufacturer

4. "The manufacturer" means the person who undertakes the last process in the manufacture of the goods.

Expenditure

5. Expenditure on items for factory or works cost shall be included once only in the calculation of the factory or works cost.

Depreciation of plant, equipment and buildings

6. Depreciation of plant, equipment and buildings shall be calculated in accordance with generally accepted accounting principles, as applied by the manufacturer.

Factory Or Works Cost

7. Factory or works cost covers the expenditure which is incurred directly by the manufacturer in the production of the goods, or which can be reasonably allocated to the production of the goods. It comprises materials, labour and overheads.

Materials

8. "Materials" are all inputs into the manufacturing process (other than those materials treated as overheads) used or consumed in the production of the finished goods, in the form in which they are received from a domestic or foreign supplier.

9. Subject to (a), (b) and (c) below, the expenditure on materials will be taken as the manufacturer's actual costs in bringing the materials into the factory or works, inclusive of any freight component, but excluding any Customs or excise or other duties paid or payable in respect of those materials.

(a) Where any material has been supplied free of charge or at a reduced cost, the expenditure on that material will be determined in accordance with sub-paragraph 1(b) of Article 8 of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade.

(b) The Australian Customs Service may exclude the expenditure on any material (whether actual cost or normal market value) where it is satisfied that the material has been added or attached to the goods solely for the purpose of artificially raising the level of qualifying content.

(c) If the Australian Customs Service determines that the expenditure on any material is in excess of the normal market value, it may determine the expenditure on that material.

Materials Of Mixed Origin

10. Materials of mixed origin are those materials which include content from both the preference area and from elsewhere.

11. In calculating the expenditure on a material of mixed origin incorporated in a final product for export to Australia, the cost of that material will be taken as:

(a) Partly of qualifying area content provided that the last process of manufacture occurred in the preference country. Qualifying area content will be in direct proportion to the actual preference area content, ie if a material has 30 per cent area content, then 30 per cent of the expenditure on that material will be included as qualifying content of the final good.

(b) Totally without area content if it does not meet the "last process of manufacture" requirement for the preference country.

Inner Containers

12. "Inner containers" shall include any container or containers into which the goods are packed, but shall not include shipping containers (including pallets and like articles or air containers).

Waste, Scrap And Recycled Materials

13. Expenditure on waste and scrap resulting from manufacturing or processing operations conducted in the preference area and expenditure on used articles collected in the preference area and fit only for the recovery of raw materials shall be treated as wholly of area content.

Labour

14. The expenditure incurred under this heading includes:

(a) Manufacturing wages and benefits (eg, productivity bonuses, company vehicle)

(b) Other factory or works labour costs incurred in connection with:

- management of the process of manufacture
- receipt of materials

- storage of materials
- supervision
- training
- quality control
- packing into inner containers
- handling and storage of the goods within the factory.

Overheads

15. Expenditure incurred under this heading includes the costs of:

(a) Inspecting and testing materials and the goods.

(b) Insuring real property, plant, equipment and materials used in the production of the goods; insuring work in progress and finished goods; liability insurance; accident compensation; insurance against consequential loss from accident to plant and equipment.

(c) Dies, moulds, tooling, and the depreciation, maintenance and repair of plant and equipment, without regard to whether these items originate within the preference area.

(d) Interest payments for plant and equipment.

(e) Research, development, design and engineering.

(f) Rent, leasing, mortgage interest, depreciation on buildings; maintenance, repair, rates and taxes for real property used in the production of the goods.

(g) Leasing of plant and equipment, without regard to whether these items originate within a Member State.

(h) Materials and supplies not being directly incorporated in the manufactured goods, (eg energy, fuel, water, lighting, lubricants, rags) without regard to whether these items originate within the preference area.

(i) Storage of the goods at the factory.

(j) Royalties or licences in respect of patented machines or processes used in the manufacture of the goods, or in respect of the right to manufacture the goods.

(k) Subscriptions to standards institutions and industry and research associations.

(l) Factory security, provision of medical care, cleaning services, cleaning materials and equipment, training materials, disposal of non-recyclable waste, safety and protective clothing and equipment, and the subsidisation of a factory cafeteria to the extent not recovered by returns.

(m) Computer facilities allocated to the process of manufacture of the goods.

(n) Contracting-out parts of the manufacturing process within the preference area.

but does not include the following (except as provided above):

(o) Costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance.

(p) Costs for telephone, mail and other means of communications.

(q) The cost of shipping containers or any cost of packing the goods into them.

(r) The cost of conveying, insuring, or shipping the goods after their manufacture is completed.

(s) Royalty payments related to a licensing agreement to distribute or sell the goods.

(t) Rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, repair, taxes and rates for real property used by personnel charged with administrative functions.

(u) Manufacturer's profit; the profit or remuneration of any trader, agent, broker, or other person dealing in the goods after their manufacture.

(v) International travel expenses, including fares and accommodation.

(w) Any other costs and expenses incurred after the completion of the manufacture of the goods.